

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

NEDZAD KAHRIMANOVIC,

Defendant.

CASE NO. **2:24-mj-00573**

**FINDINGS REGARDING ORDER
OF RELEASE, DKT. 29.**

The government filed a complaint pursuant to its Treaty obligations between the United States and Bosnia and Herzegovina. Dkt. 1. The complaint alleges the government of Bosnia and Herzegovina (hereafter “Bosnia”) has formally requested the extradition of Defendant, Nedzad Kahrmanovic, on the grounds Defendant was convicted in 2017 after a trial and sentenced to a term of five years of imprisonment for committing a war crime in 1992 – the murder of a civilian during armed conflict.

The government also filed a memorandum seeking the detention of Defendant. Dkt. 6. Defendant by retained counsel opposed detention, Dkt. 21, and following a detention hearing held on October 3, 2024, the Court issued an order of release and appearance bond. Dkts. 28, 29. While the parties agreed on numerous matters, they disagreed whether Defendant should be detained or released.

1 The legal framework in extradition cases does not favor release and release of a
2 Defendant is normally not granted. Rather, Defendant bears the burden to establish he is neither
3 a flight risk nor a danger to the community, and special circumstances warrant his release. There
4 is disagreement among courts as to whether a Defendant's burden of proof is by a preponderance
5 of the evidence, or by clear and convincing evidence. The parties did not disagree that the Court
6 should apply this framework and they also did not disagree on many facts regarding the case.

7 At the detention hearing, and in the pleadings submitted, there was no disagreement that
8 Bosnia has submitted a valid treaty request to the government, and that Defendant is the person
9 subject to this request. The facts underlying the request were thus not disputed. Defendant was in
10 the military and involved in armed conflict in the early 1990's. He and his family left Bosnia in
11 1997 and have lived in Bellevue, Washington since then. Years after Defendant left Bosnia, he
12 was charged with committing the war crime of killing a civilian. He voluntarily returned to
13 Bosnia to attend his trial on the war crime which apparently took many months, and claimed he
14 acted in self-defense. During his trial, he traveled back and forth between Bosnia and the United
15 States. After Defendant was convicted of committing a war crime, he appealed. His appeal was
16 denied, and the United States averred a subpoena was eventually sent to Defendant at his home
17 in Bellevue, Washington that directed Defendant to return to Bosnia to serve his sentence. The
18 United States averred FedEx provided a tracking number regarding this subpoena but
19 acknowledged they did not possess any records of the delivery. Defendant contended the lack of
20 any documentation that the subpoena was served violated his right to due process and notice of
21 the subpoena.

22 After Defendant failed to return to Bosnia, the Tuzla Municipal Court in Bosnia issued an
23 international arrest warrant on February 26, 2019 for the purpose of executing Defendant's five-

1 year term of imprisonment. The government of Bosnia subsequently submitted an extradition
2 request to the United States in September 2020. Pursuant to the arrest warrant, Defendant was
3 arrested on September 19, 2024 at his home in Bellevue, which is also the address given to
4 FedEx for service of the subpoena.

5 According to the pretrial office's report, Defendant has resided in Bellevue for many
6 years. He has lived with his adult daughter in Bellevue for 15 years, subject to guardianship. His
7 former wife serves as his guardian. Defendant has significant health problems including multiple
8 organ failure, stage 4 chronic kidney disease, diabetes, dementia, anxiety, eye degeneration,
9 hypertensive heart disease with heart failure and an amputated leg. The parties agree he requires
10 kidney dialysis approximately three times a week. In addition to the Bosnian conviction for war
11 crimes, Defendant also was convicted of negligent driving in the first degree in 2001, DV assault
12 (deferred) in 2009 and reckless driving in 2011.

13 Based upon the facts presented to the Court, the government argued the Court should
14 detain Defendant focusing on a failure to show special circumstances and an intentional failure to
15 return to Bosnia which makes him a flight risk.

16 The parties agreed a defendant's medical condition may constitute a special circumstance
17 supporting release. The government argued a medical condition should be deemed a special
18 circumstance only if Defendant cannot receive adequate care while held in detention. The
19 government argued Defendant's medical needs can be adequately met by the Bureau of Prisons
20 but acknowledged that the federal detention center at SeaTac would have to take Defendant to an
21 outside medical facility about three times a week to provide needed kidney dialysis. The Defense
22 disagreed with government's position. The defense argued the government's position would
23

1 require the Court to detain all individuals, save those who were so ill that they required
2 hospitalization.

3 A bright-line rule that would resolve whether Defendant's health problems constitute a
4 special circumstance does not appear to exist. As such, the Court must, in its discretion, decide
5 whether the facts in this particular case support a finding of special circumstances. The Court is
6 mindful that its discretion is guided by the term "special circumstance" which inherently means
7 in very limited circumstances.

8 The Court finds that in this particular case, Defendant has met his burden to show that his
9 medical condition is a special circumstance that warrants release. There is no dispute
10 Defendant's medical condition is significant and severe; that he requires medical care outside of
11 the federal detention center three times a week; and that his cognitive limitations will make it
12 very difficult and perhaps impossible for him to take care of himself. Defendant in fact is subject
13 to a guardianship which strips him of many rights and responsibilities including making medical
14 decisions.

15 The Defense also argued that the amount of time it took Bosnia to start extradition
16 proceedings and attendant delay between the issuance of the arrest warrant and Defendant's
17 arrest is a special circumstance. The Court declines to find the delays in the extradition process
18 leading to Defendant's arrest is a special circumstance.

19 Turning to the other factors that Defendant has the burden of overcoming, the
20 government argued Defendant is a flight risk because he intentionally failed to return to Bosnia
21 in disregard of the subpoena that the government avers was sent to Defendant. There is a dispute
22 whether Defendant actually received the subpoena and thus the Court considers the entire history
23 of Defendant's actions regarding the war crime and his ties to the community. The history of the

1 Defendant's actions indicate he has met his burden regarding risk of flight. Defendant left
2 Bosnia years before he was charged with the war crime. After the charges were filed, he returned
3 to Bosnia and attended his trial. His conduct as to the criminal charges support a finding that he
4 is not a flight risk. Additionally, Defendant has lived in Bellevue for decades. He took no action
5 to obscure his identity and did not move about to evade detection as to his whereabouts.
6 Additionally, Defendant lacks the financial resources to flee and the mental wherewithal to evade
7 the governments of Bosnia and the United States. He suffers from dementia of some sort and is
8 subject to a guardianship that has stripped him of his ability to conduct any financial
9 transactions, sell property or even drive a car. He is supported by family members and social
10 security payments which are quite small.

11 The Court thus finds Defendant has met his burden that he is not a risk of flight. The
12 Court also finds Defendant has met his burden that he is not a danger to the community. The
13 extradition offense is the most serious offense. It was committed some 32 years ago. Defendant
14 has three other criminal convictions or arrests but the most recent of these-reckless driving-
15 occurred in 2011.

16 In sum, the Court finds Defendant has met his burden to show he is not a danger to the
17 community or a flight risk. He is a disabled, homebound older man with multiple organ failure
18 problems and onset of dementia. He has lived with his family in Bellevue, Washington since
19 1997 and returned voluntarily to Bosnia to address the charges and attend his trial. He contests
20 being served a subpoena to return to Bosnia and while there is some evidence a subpoena was
21 sent to FedEx for delivery there is no documentation it was actually served. Defendant has some
22 misdemeanor criminal which is now dated as he has no convictions since 2011.

1 Defendant's serious deterioration of health is a judicially recognized special circumstance
2 justifying release. His deterioration is so extreme that a state court appointed a guardian based
3 upon a finding Defendant is incapacitated. In appointing a guardian, the state court stripped
4 Defendant of numerous rights (prohibitions on marriage, contracts, agreements, driving,
5 lawsuits, buying property, medical treatment care and assistance). The Guardian Ad Litem's
6 report indicates medical record indicated Defendant's mental conditions interfere with his ability
7 to take information and make day to day decisions. The Court thus finds Defendant has met his
8 burden to show there are special circumstances to support release.

9 DATED this 4th day of October, 2024.

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BRIAN A. TSUCHIDA
United States Magistrate Judge